

**PLAINTIFFS' RESPONSE TO
SOUTHERN UTAH
WILDERNESS ALLIANCE *et al.*'s
MOTION TO INTERVENE AS
DEFENDANT**

Plaintiffs Uintah County, Utah and the Uintah County Board of Commissioners file this response to Proposed Defendant-Intervenors Southern Utah Wilderness Alliance *et al.*'s (SUWA) motion to intervene as defendants in this case pursuant to Fed. R. Civ. P. 24. Plaintiffs do not concede, admit or agree to the alleged facts or legal arguments made by SUWA in their supporting memorandum, but nevertheless take no position on SUWA's motion to intervene given the liberal case law regarding intervention in the Tenth Circuit.

Plaintiffs do, however, dispute SUWA's representation to the Court that the Federal Defendants do not adequately represent SUWA's interests in this case. As grounds therefore, SUWA argues that it is "especially apparent that Federal Defendants cannot be relied upon to represent SUWA's interests here because much of this case hinges upon the interpretation, enforcement, and implementation of the 2003 Settlement" reached between the Department of the Interior and the State of Utah, School and Institutional Trust Lands Administration (SITLA) and the Utah Association of Counties, of which Uintah County is a member. Dckt. #18, SUWA Memorandum in Support of Intervention, p.22. According to SUWA, the Federal Defendants have "defended it aggressively" and have "worked to implement it across the nation." *Id.* SUWA previously challenged the legality of the 2003 Settlement Agreement which was upheld by this Court and states that it "will do so again here." *Id.*

Much to the contrary, Plaintiffs claims arise out of the Federal Defendants' breach and apparent repudiation of the 2003 Settlement Agreement. The Federal Defendants' outright failure to honor the Settlement Agreement is most recently evidenced by Interior Secretary Salazar's Order of December 22, 2010, which orders a new course for the Bureau of Land Management's (BLM) management of public lands with alleged wilderness characteristics. Interior Secretarial Order No.

3310, Protecting Wilderness Characteristics on Land Managed by BLM.

SUWA repeatedly met with Interior officials and has relentlessly lobbied for the rescission of the 2003 Settlement Agreement, and to this end, the Federal Defendants' new wilderness character land management order answered their call to Plaintiffs' material detriment. Consequently, SUWA and the Federal Defendants' interests are clearly and perfectly aligned, and there is no question that the Federal Defendants will adequately represent and defend SUWA's interests in this case.

Dated: January 10, 2011

Respectfully submitted,

/s/ Constance E. Brooks
CONSTANCE E. BROOKS
MICHAEL B. MARINOVICH
C. E. Brooks & Associates
303 East 17th Avenue, Suite 650
Denver, CO 80203
(303) 297-9100

J. MARK WARD #4436
Utah Association of Counties
5397 South Vine Street
Salt Lake City, UT 84107
(801) 265-1331 (telephone)
(801) 265-9485 (facsimile)

CERTIFICATE OF SERVICE

I hereby certify that on January 10, 2011, I electronically filed the foregoing PLAINTIFFS' RESPONSE TO SOUTHERN UTAH WILDERNESS ALLIANCE *et al.*'s MOTION TO INTERVENE AS DEFENDANT with the Clerk of the Court using the CM/ECF system which will send notification of this filing to all counsel of record.

/s/ Constance E. Brooks
CONSTANCE E. BROOKS